IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1779 OF 2005

Radheshyam Dwarkasharan Shukla ..Petitioner

Vs.

Smt.Ashadevi Radheshyam Shukla & Anr. ..Respondents

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Mr.V.R.Tripathi i/b M/s. V.R.Tripathi & Co. Advocate for Petitioner
Mr.Vinayak Pande for Respondents
Mr.R.S.Khadapkar A.P.P. for State

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : AUGUST 26,2005

P.C.

1. Heard the learned advocate for the petitioner-oriignal accused, learned advocate for the respondent nos.1 and 2 and the learned A.P.P. for the State. The respondent no.1 is the original complainant and first wife of the petitioner.

2. The respondent no.1 had filed a complaint against the present petitioner under Sections 494 and 109 r.w. 34 of IPC. The said complaint was filed by her before the Court of learned Metropolitan Magistrate, 10th Court, Andheri, Mumbai. In the said case, process came to be

issued against the petitioner under Sections 494 and 109 r.w. 34 of IPC hence, the petitioner has approached this Court for quashing of the said process and for quashing the complaint.

3. The learned advocate for the petitioner has submitted that the complaint is absolutely vague and though respondent no.1 alleges that the petitioner got married to some other lady, she has not given the date, time and place where the said married took place. It is no doubt true that the specific date, time and place where the marriage took place, has not been mentioned by the complainant in her complaint. However, the complainant has specifically stated the name of the second wife of her husband is Smt.Sarveshkumari Radhyesham Shukla. She has also stated that two children were born out of the wedlock between her husband and said Smt.Sarveshkumari. Two children are the daughter and son and daughter Ms.Sandhya at the time of filing the complaint, was about 17 years of age and son Avinash at the time of filing the complaint was 13 years of age. She has also stated that Ms.Sandhya was studying in Tolani

College and son was studying at Little Flower High School.

4. On bare perusal of the complaint, I find that the complainant has stated that after the birth of her second son Master Ajaykumar, she went back to live with her husband i.e. the petitioner. Thereafter, her husband purchased a room at Balgovind Nagar without informing her. She has stated that during this time, she spent her life at Sitaladevi temple at Vasai and at that time, her husband went to native place and got married with accused no.2 Smt.Sarveshkumari. Thus, though specific date, time and place of the marriage, have not been stated by the complainant in her complaint, from the bare perusal of the complaint, I find that there is sufficient material to proceed against the petitioner and hence, I do not find that this is a fit case for recalling of process or quashing the complaint.

5. Writ Petition is disposed of. The trial Court shall not be influenced by any observations made in this order while disposing of the trial.

[V.K.TAHILRAMANI,J.]